Green Hill Solar Farm
EN010170

Statutory Nuisance Statement

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APFP Regulation 5(2)(f)

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Report Prepared for: Green Hill Solar Farm

DCO Submission

Statutory Nuisance Statement

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1 Introduction

1.1 Background

1.1.1 This Statement has been prepared on behalf of Green Hill Solar Farm Limited (the Applicant) in relation to an application (the Application) for a Development Consent Order (DCO) for the construction, operation and maintenance and decommissioning of Green Hill Solar Farm (hereafter referred to as the Scheme) with a total capacity exceeding 50 megawatts (MW).

1.1.2 The Scheme comprises the construction, operation, maintenance and decommissioning of an electricity generating station with a capacity of over 50 MW comprising ground mounted solar arrays and associated development, the latter encompassing: energy storage, grid connection infrastructure and any other infrastructure as well as works integral to the construction, operation, maintenance and decommissioning of the Scheme. The Point of Connection (PoC) for the Scheme to connect to the National Grid will be at the Grendon 400kV National Grid Substation (Grendon Substation).

1.1.3 Further details on the Scheme are provided in Chapter 4 of the Environmental Statement (ES), Scheme Description **[EN010170/APP/GH6.2.4]**, which accompanies the Application.

1.1.4 This Statutory Nuisance Statement (the Statement) has been prepared on behalf of the Applicant and sets out appropriate mitigation measures to ensure that the Scheme has no significant effects that would give rise to a statutory nuisance.

1.2 Purpose and Structure of this Statement

1.2.1 As the Scheme will generate over 50 MW of electricity it is defined as a Nationally Significant Infrastructure Project (NSIP) under 14(1)(a) and 15(2) of the Act (Ref.1) and is therefore required to be authorised by a DCO.

1.2.2 The Scheme is considered to be 'EIA development' as defined by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (the 'EIA Regulations') requiring an Environmental Impact Assessment (Ref.2).

1.2.3 As such this Statement has been prepared to satisfy Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) (the 'APFP Regulations'), which requires an application for a DCO to be accompanied by "*a statement whether the proposal engages one or more of the matters set out in section 79(1) (statutory nuisances and inspections therefor) of the Environmental Protection Act 1990, and if so how the applicant proposes to mitigate or limit them".*

1.2.4 The matters in Section 79(1) of the Environmental Protection Act 1990 (EPA) (Ref.3) that have been considered within the Statement are general site condition, air quality, waste, artificial light, and noise and vibration, during all phases of the Scheme.

1.2.5 The Statement should be read alongside other documents submitted as part of the application, particularly:

- The Environmental Statement **[EN010170/APP/GH6.2]**;

- Outline Construction Environmental Management Plan (OCEMP) **[EN010170/APP/GH7.1]**.
- Outline Operational Environmental Management Plan (OOEMP) **[EN010170/APP/GH7.2]**.
- Outline Decommissioning Statement **[EN010170/APP/GH7.3].**
- Outline Battery Storage Safety Management Plan **[EN0101070/APP/GH7.7]**

1.2.6 The Statement is produced in accordance with Section 158 of the Planning Act 2008 which provides statutory authority for carrying out development or anything else which is authorised by the DCO, as a defence against civil or criminal proceedings for nuisance.

1.2.7 The Statement sets out appropriate mitigation measures to ensure that the Scheme has no significant effects that would give rise to a statutory nuisance.

1.2.8 Article 7 (Defence to proceedings in respect of statutory nuisance) of the Draft Development Consent Order **[EN010170/APP/GH3.1]** submitted with the Application, contains a provision that would provide a defence to proceedings in respect of statutory nuisance (in respect of sub-paragraph (g) of Section 79(1) of the EPA (noise emitted from premises so as to be prejudicial to health or a nuisance)), subject to the criteria set out in that article.

1.2.9 The Statement is structured as follows:

- Section 1 provides an introduction to the purpose and structure of the statement;
- Section 2 sets out the relevant planning policy context under which the Scheme is assessed;
- Section 3 details the matters which are considered to be a potential statutory nuisance associated with the construction, operation (and maintenance) or decommissioning of the Scheme;
- Section 4 assesses the risk of the identified matters causing a statutory nuisance; and
- Section 5 sets out the conclusions of the assessment.

2 Legislative and Policy Context

2.1 Legislative Context

The APFP Regulations 2009

2.1.1 Regulation 5(2)(f) of the APFP Regulations states that an application for a DCO must be accompanied by *"a statement whether the proposal engages one or more of the matters set out in section 79(1) (statutory nuisances and inspections therefor) of the Environmental Protection Act 1990, and if so how the applicant proposes to mitigate or limit them".*

Environmental Protection Act 1990 (EPA) (Ref.3)

2.1.2 Section 79(1) of the EPA, as it applies in England, provides that the following matters constitute "statutory nuisances":

a) "any premises in such a state as to be prejudicial to health or a nuisance;

b) smoke emitted from premises so as to be prejudicial to health or a nuisance;

c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance;

d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance;

e) any accumulation or deposit which is prejudicial to health or a nuisance;

f) any animal kept in such a place or manner as to be prejudicial to health or a nuisance;

fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance;

fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance;

g) noise emitted from premises so as to be prejudicial to health or a nuisance;

ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street or in Scotland, road; and

h) any other matter declared by any enactment to be statutory nuisance."

2.1.3 For a nuisance to be considered a statutory nuisance, it must unreasonably and substantially interfere with the use or enjoyment of a home or other premises or injure health or be likely to injure health. To be considered a nuisance, an activity must be ongoing or repeated – a one-off event would not usually be considered a nuisance (Ref.4).

2.2 Policy Context

Overarching National Policy Statement for Energy (NPS EN-1)

2.2.1 Paragraph 4.15.1 of NPS EN-1 (Ref.5) states that:

"Section 158 of the Planning Act 2008 confers statutory authority for carrying out development consented to by, or doing anything else authorised by, a development Consent Order."

2.2.2 Paragraph 4.15.2 states that:

"Such authority is conferred only for the purpose of providing a defence in any civil or criminal proceedings for nuisance. This would include a defence for proceedings for nuisance under Part III of the Environmental Protection Act 1990 (EPA) (statutory nuisance) but only to the extent that the nuisance is the inevitable consequence of what has been authorised."

2.2.3 Paragraph 4.15.5 states that the Applicant assessment must:

"At the application stage of an energy NSIP, possible sources of nuisance under section 79(1) of the EPA 1990 and how they may be mitigated or limited should be identified by the applicant so that appropriate requirements can be included in any subsequent order granting development consent".

Draft Energy National Policy Statements (April 2025)

2.2.4 In April 2025, Government published draft updated versions of EN-1 (Ref.6), EN-3 (Ref.7) and EN-5 (Ref.8). Material changes to the policies are subject to consultation until May 2025 prior to designation. The principal change relevant to this application is the addition of reference to the Clean Power 2030 Action Plan (Ref.9). There are no proposed changes to paragraphs 4.15.1, 4.15.2 and 4.15.5.

2.2.5 The Policy Compliance Document **[EN010170/APP/GH7.23]** assesses the compliance of the Scheme with NPS EN-1 within Policy Accordance Tables, as well as the Scheme's compliance with national and local planning policies.

3 Assessment of Significance

3.1 Introduction

3.1.1 The Environmental Statement (ES) **[EN010170/APP/GH6.1** to **GH6.5]** accompanying the DCO Application assesses the likelihood of significant effects arising from the Scheme which could constitute a statutory nuisance, as identified in Section 79(1) of the EPA.

3.1.2 Further to the assessment undertaken within the ES, the matters to be addressed, or excluded, within this Statement in accordance with Section 79(1) of the EPA are set out below:

a) any premises in such a state as to be prejudicial to health or a nuisance.

3.1.3 This matter is considered further within this Statement within Section 4.1.

b) smoke emitted from premises so as to be prejudicial to health or a nuisance.

3.1.4 The Scheme is not anticipated to generate smoke and therefore this matter is not considered further within this Statement. With regards to unforeseen emergency situations, namely accidental fire, these are not expected to be of a nature or duration to amount to statutory nuisances and are addressed separately in ES Chapter 23: Major Accidents and Disasters **[EN010170/APP/GH6.2.23]**, including through the Outline Battery Storage Safety Management Plan **[EN010170/APP/GH7.7]** accompanying the Application.

c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance.

3.1.5 This matter only applies to private dwellings, as provided for under section 79(4) of the EPA. This matter is therefore not considered further within the Statement.

d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance.

3.1.6 ES Chapter 16: Air Quality **[EN010170/APP/GH6.2.16]**, addresses potential air quality impacts including the matter of dust. Dust is therefore considered further in this Statement. With regards to steam, smell and other effluvia, the Scheme is not anticipated to result in any impacts from these identified matters and therefore these are not considered further within the Statement.

3.1.7 The air quality assesment within ES Chapter 16: Air Quality **[EN010170/APP/GH6.2.16]** also includes for a fire emissions assessment in the unlikely event of a fire at Green Hill C and Green Hill BESS.

e) any accumulation or deposit which is prejudicial to health or a nuisance.

3.1.8 ES Chapter 24: Other Environmental Matters **[EN010170/APP/GH6.2.24]** considers the potential waste generated by the scheme and its impacts. This matter is considered further in this Statement under Section 4.1, ‘Condition of Site’.

f) any animal kept in such a place or manner as to be prejudicial to health or a nuisance.

3.1.9 The Scheme will not keep any animals in such a place or manner as to be prejudicial to health or a nuisance. Any grazing of livestock will be in accordance with good practice guidance for livestock welfare as secured within the Outline Operational Environmental Management Plan **[EN010170/APP/GH7.2]** accompanying the application; therefore, this is not considered further in the Statement.

fa) any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance.

3.1.10 ES Chapter 9: Ecology **[EN010170/APP/GH6.2.9]** assesses that the cessation of intensive arable farming practices (particularly insecticide spraying) and reversion of land within the Scheme to grassland (for at least the lifetime of the Scheme), can be expected to result in increased diversity and abundance of invertebrates at the Sites. This includes a number of pollinating butterfly and bee species which have been shown to have increased diversity and abundance in solar arrays compared to control plots. Given the large extent of habitat that will likely increase in quality, it concludes that the operational impacts of the development will lead to beneficial effects on a range of invertebrates.

3.1.11 The Scheme is therefore likely to result in an increase in beneficial pollinating insect species. A significant increase in species that are prejudicial to human health or a nuisance is not anticipated. Therefore, this matter is not considered further within the Statement.

fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance.

3.1.12 ES Chapter 8: Landscape and Visual **[EN010170/APP/GH6.2.8]** assesses the potential impacts of temporary construction lighting and operational security lighting. This matter is considered further in this Statement within Section 4.3.

g) noise emitted from premises so as to be prejudicial to health or a nuisance.

3.1.13 ES Chapter 14: Noise and Vibration **[EN010170/APP/GH6.2.14]** assesses the potential noise impacts of the Scheme. This matter is considered further in this Statement within Section 4.4.

ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street.

3.1.14 ES Chapter 14: Noise and Vibration **[EN010170/APP/GH6.2.14]** assesses the potential noise impacts of the Scheme. This matter is considered further in this Statement within Section 4.4.

h) any other matter declared by any enactment to be statutory nuisance.

3.1.15 Possible glint and glare impacts are not considered within this Statement as natural light is not covered within statutory nuisance legislation (notwithstanding, glint and glare effects is assessed in ES Chapter 15: Glint and Glare **[EN010170/APP/GH6.2.15]**.

4 Matters Engaged and Proposed Mitigation Measures

4.1 Condition of the Site

4.1.1 The following represents a statutory nuisance:

- Section 79(1)(a) of the EPA - *"any premises in such a state as to be prejudicial to health or a nuisance"*.
- Section 79(1)(e) of the EPA - *"any accumulation or deposit which is prejudicial to health or a nuisance"*.

Construction

4.1.2 The types of construction activities pursuant to the Scheme include, but are not limited to:

- Site preparation and civil works;
- Installation of Solar PV panel arrays;
- Construction of BESS;
- Construction of sub-stations, invertors units and conversion units;
- Construction of the cable routes between the Sites and to the Point of Connection (constructed within the Cable Route Corridor);
- Testing and commissioning of equipment; and
- Landscaping mitigation, planting and habitat creation.

4.1.3 The construction works have the potential to create pollution incidents such as spillages and create litter and general waste which can constitute a nuisance under definition set in the EPA.

4.1.4 Construction control mechanisms proposed include core working hours and traffic management, and these measures are set out in the Outline Construction Environmental Management Plan (OCEMP) **[EN010170/APP/GH7.1]** submitted with the Application. The OCEMP has been informed by the Environmental Impact Assessment (EIA) and will guide the construction process through environmental controls to promote good construction practice and avoid adverse or nuisance causing impacts during the construction phase.

4.1.5 Following the granting of the DCO, a detailed Construction Environmental Management Plan (CEMP) will be prepared, agreed, and approved by the relevant Local Planning Authorities in advance of commencing the works permitted under the DCO. The detailed CEMP will be substantially in accordance with the Outline CEMP.

4.1.6 A strategy to deal with accidental pollution will be included within the detailed CEMP prior to commencement of construction. A high-level strategy is identified within Section 3 of the OCEMP. Any necessary equipment (e.g., spillage kits) would be held on-site and all site personnel would be trained in their use. The Environment Agency would be informed immediately in the unlikely event of a suspected pollution incident.

4.1.7 To control the waste generated during site preparation and construction, the contractor will separate the main waste streams on-site, prior to transport to an approved, licensed third party waste facility for recycling or disposal.

4.1.8 The Site Waste Management Plan (SWMP), is to be prepared before construction begins, the SWMP will detail the efficient management, storage, and legal disposal of materials during the construction phase in line with the measures set out in the OCEMP **[EN010170/APP/GH7.1]**. All waste to be removed from the Scheme will be undertaken by fully licensed waste carriers and taken to licensed waste facilities for recycling or disposal.

4.1.9 Compliance with the OCEMP will be secured by a Requirement in the DCO.

4.1.10 With these measures in place, it is considered that the construction phase of the Scheme will not give rise to impacts which would constitute a statutory nuisance under Section 79(1)(a) or (e) of the EPA.

Operation and Maintenance

4.1.11 During the operation of the Scheme, the Solar Farm and associated infrastructure is not considered to result in the 'premises' within the Order limits, being in 'such a state' as to be prejudicial to health or nuisance.

4.1.12 During the operational phase, maintenance activity within the Sites will be minimal and will be restricted principally to soft landscape management, equipment maintenance and servicing, replacement of any components that fail, and monitoring. It is anticipated that maintenance and servicing would include the inspection, removal, reconstruction, refurbishment or replacement of faulty or broken equipment and adjusting and altering the solar module orientation to ensure the continued effective operation of the Scheme and improve its efficiency.

4.1.13 Along the Cable Route Corrider operational activity will consist of routine inspections (schedule to be determined) and any reactive maintenance such as where a cable has been damaged.

Programme of Replacement Activities

4.1.14 Across the 60 year lifetime of the Scheme, it is expected that alongside the regular maintenance of equipment, infrastructure such as panels and batteries will require replacement.

4.1.15 It is not expected that an extensive replacement of all components will be required across the entirety of the Scheme during one period; instead, the programme for replacement of equipment across the Scheme is likely be staged in order to maintain the electrical export to the National Grid.

4.1.16 The following assumptions have been made regarding the equipment replacements needed at the Scheme:

- Solar PV Panels typically have a lifespan of up to 40 years or more, and it has been assumed that Solar PV Panels will be replaced once during the lifetime of the Scheme. The Solar PV Panels are anticipated to be replaced over a maximum 12 to 24 month period.

- The BESS and inverters could be replaced up to five times during the operational phase.
- No intrusive ground works will be required to replace Solar PV Panels or BESS.

4.1.17 If any abnormal loads are required for the replacement of equipment, consultation will be carried out and approvals will be sought from the relevant local planning and highways authorities.

4.1.18 The environmental impacts of replacing scheme components will be no greater than during the construction phase, particularly regarding vehicle movements.

4.1.19 Operational replacement activities are assessed in the ES (Chapters 7 to 24 **[EN010170/APP/GH6.2.7 to GH6.2.24]**). The assessments in these chapters have considered a reasonable worst-case scenario for operational replacement with regard to frequency and duration of replacement activities. The assessments in these chapters have considered a reasonable worst-case scenario for operational replacement with regard to frequency and duration of replacement activities. Where a shorter or longer operational replacement programme is anticipated to result in a greater level of likely significant effects in respect of a particular topic, the reasonable worst case programme has been assumed for the purposes of the assessment of that topic.

4.1.20 A Waste Management Strategy will be developed and agreed with the authority prior to commencement of the operation (including maintenance) as part of the detailed OEMP.

4.1.21 Any mitigation measures associated with the programme of replacement activities will be outlined within the Outline Operational Environmental Management Plan (OOEMP) **[EN010170/APP/GH7.2]**.

4.1.22 The Scheme will not give rise to impacts which would constitute a statutory nuisance under section 79(1) (a) or (e) during the operational phase.

Decommissioning

4.1.23 During decommissioning, the following components of the Scheme, as referred to by Schedule 1 of the Draft Development Consent Order **[EN010170/APP/GH3.1]** in the locations shown by the Works Plan **[EN010170/APP/GH2.4]** will be removed and recycled or disposed of in accordance with good practice and market conditions at that time:

- Ground mounted solar photovoltaic generating station including solar modules fitted to mounting structures, DC electrical cabling, conversion units including inverters, transformers, switchgear, and monitoring and control systems and, electrical and communications cabling within the solar array Sites (Work No.1);
- Energy storage facility (Work No.2);
- On-site substations at each solar farm site (Work No.3); and
- The underground grid connection cable works (Work No.5) will be decommissioned / removed. The associated cable ducting will be left in-situ

to avoid unnecessary intrusion. It is possible to remove the cable itself by extracting it at the joint bays from within the ducting, so that the cable can be recycled; and

- Ancillary infrastructure including fencing, gates, boundary treatment and other means of enclosure, CCTV columns, lighting columns and lighting, cameras, weather stations, communication infrastructure, and perimeter fencing (Work No. 6).

4.1.24 As with the construction phase of the Scheme, there is the potential for the decommissioning works to create pollution incidents such as spillages and also create litter and general waste which can constitute a nuisance under the EPA.

4.1.25 A detailed Decommissioning Environmental Management Plan (DEMP) will be prepared prior to decommissioning activities. The detailed Decommisioning Statement will be developed in accordance with the Outline Decommissioning Statement **[EN010170/APP/GH7.3].**

4.1.26 A strategy to deal with accidental pollution will be included within the detailed DEMP prior to decommissioning activites commencing. Any necessary equipment (e.g., spillage kits) would be held on-site and all site personnel would be trained in their use. The Environment Agency would be informed immediately in the unlikely event of a suspected pollution incident.

4.1.27 The detailed DEMP will specify the waste streams to be estimated and monitored and goals set with regards to the waste produced during the decommissioning phase. A Decommissioning Resource Management Plan (DRMP) will be developed by the appointed contractor and will set out how to manage the disposal of waste in accordance with relevant legislative and policy requirements at the time of decommissioning.

4.1.28 All waste to be removed from the Scheme will be undertaken by fully licensed waste carriers and taken to licensed waste facilities for recycling or disposal.

4.1.29 The measures set out in the Outline Decommissioning Statement **[EN010170/APP/GH7.3]** are considered embedded mitigation measures. Compliance with the Decommissioning Statement will be secured by a Requirement in the DCO.

4.1.30 It is considered that these measures will not give rise to impacts which would constitute a statutory nuisance under Section 79(1)(a) or (e) of the EPA, during the decommissioning phase of the Scheme.

Conclusion

4.1.31 For the reasons explained above and with the mitigation measures described in place it is considered that the construction, operation (and maintenance), and decommissioning phases of the project will not give rise to impacts from the site condition which would constitute a statutory nuisance under section 79(1) (a) or (e).

4.2 Air Emissions

4.2.1 Section 79(1)(d) of the EPA states that the following constitutes a statutory nuisance:"*any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance*"

4.2.2 An air quality assessment has been undertaken and is reported in ES Chapter 16: Air Quality **[EN010170/APP/GH6.2.16]**. The chapter assesses the significance of potential air quality effects during the construction and decommissioning phases, and concludes that with the adoption of standard practice dust management mitigaiton measures there would be no likely significant effects.

Construction and Decommissioning

4.2.3 During the construction phase, there is the potential for emissions of dust and particles due to the following:

- Earthworks (for example soil stripping and excavation);
- Construction phase; and
- Track out (movement of mud and soil out of the site by construction vehicles).

4.2.4 Qualitative dust assessments based on relevant industry (Institute of Air Quality Management (IAQM)) guidance have been undertaken for the Sites together with the preparation of Construction Dust Management Plans. They are presented at ES Appendix 16.1 **[EN010170/APP/GH6.3.16.1]**.

4.2.5 The Construction Dust Management Plans adopt good site practice on controlling dust outlined within the IAQM's 'Guidance on the assessment of Dust from Demolition and Construction' document for high-risk sites. These measures represent good industry practice and are therefore embedded within the Scheme design.

4.2.6 During the construction phase, the potential risk of human health impacts is low for earthworks, construction and trackout. The potential risk of dust impacts on ecological sites is high for earthworks and construction. However, these are predicted to be short-term and temporary impacts. The construction dust risk assessment is used to define appropriate measures relating to aspects such as site management, communication and monitoring to ensure that dust effects are mitigated such that air quality effects are not significant. These measures have been identified in Table 14 of Appendix 16.1 Construction Dust Methodology and Assessment **[EN010170/APP/GH6.3.16.1]** and have been incorporated into the OCEMP **[EN010170/APP/GH7.1]**. With these mitigation measures in place, the effects from the construction of the Scheme are not predicted to be significant.

4.2.7 As the predicted construction traffic flows would be below the traffic increase thresholds criteria in the EPUK/IAQM guidance to cause a significant air quality effect, effects from construction vehicles emissions on local air quality are not significant. However, the OCEMP and Outline Construction Traffic Management Plan (OCTMP) include mitigation measures to reduce vehicle emissions and promote sustainable transport options.

4.2.8 Several control measures have been included in the OCEMP **[EN010170/APP/GH7.1]** including:

- Hold regular liaison meetings with other high risk construction sites within 500 m of the Order Limits, to ensure plans are co-ordinated and dust and particulate matter emissions are minimised. It is important to understand the interactions of the off-site transport/deliveries which might be using the same strategic road network routes; and
- Vehicles will be correctly maintained and operated in accordance with manufacturer's recommendations and in a responsible manner. All plant and vehicles will be required to switch off their engines when not in use and when it is safe to do so. In addition, plant and vehicles will conform to relevant applicable standards for the vehicle type as follows:
- Euro 4 (Oxides of Nitrogen (NOx)) for petrol cars, vans and minibuses;
- Euro 6 (NOx and PM) for diesel cars, vans and minibuses; and
- Euro VI (NOx and PM) for lorries, buses, coaches and Heavy Goods Vehicles (excluding specialist abnormal indivisible loads).

4.2.9 In addition, the following measures have been included in the OCTMP **[EN010170/APP/GH7.9]** including:

- A Construction Worker Travel Plan will be drafted and implemented, to encourage construction workers to travel to the Site via sustainable travel, where possible.

4.2.10 ES Chapter 16: Air Quality **[EN010170/APP/GH6.2.16]** sets out that decommissioning is expected to generate similar (if not slightly lower) effects to those anticipated during the construction phase, and therefore the mitigation measures proposed for implementation during the construction phase will be appropriate for application to decommissioning. It concludes that impacts on local air quality as a result of dust generation during decommissioning are considered to be negligible and not significant.

4.2.11 A detailed DEMP will be prepared prior to the commencement of decommissioning and secured by a Requirement in the DCO. The detailed DS will be substantially in accordance with the Outline Decommissioning Statement **[EN010170/APP/GH7.3]** supporting the application.

4.2.12 The relevant mitigation measures proposed for implementation during the construction phase will be included within the detailed Decommissiong Statement prior to decommissioning.

Operation

4.2.13 The operational traffic associated with the Scheme is expected to be very low (no more than two visits per month to any of the Sites). As the Sites are not located within or adjacent to an Air Quality Management Area (AQMA), ES Chapter 16: Air Quality **[EN010170/APP/GH6.2.16]** concludes that traffic air quality impact can be scoped out, according to the "Indicative criteria for requiring an air quality assessment" in IAQM Guidance of Land-use planning and development control: Planning for air quality, January 2017 (Ref.10). Operational traffic flows resulting

from equipment replacement would be much lower than vehicle flows predicted for the construction phase and therefore be below the AADT traffic change criteria in the EPUK and IAQM development control guidance. Commitments have been made within the Outline Operational Traffic Management Plan (OOTMP) **[EN010170/APP/GH7.25]** to include such measures from the CTMP as necessary for replacement activities. Measures include wheel washing, road sweeping, switching off engines when not in use and the drafting and implementation of a Replacement Activities Worker Travel Plan prior to major replacement periods to encourage workers to travel to the Site via sustainable travel, where possible.

4.2.14 The Scheme does not include any fixed plant which may give rise to emissions, such as Combined Heat and Power (CHP) or boilers, therefore there are no emissions associated with the proposed Scheme and the direct impacts on air quality are determined to be 'imperceptible'.

4.2.15 No likely significant effects on air quality are therefore predicted during the operational phase of the Scheme.

Conclusion

4.2.16 For the reasons explained above and with implementation of the above measures, no significant effects are expected to occur in relation to air quality matters in EIA terms, including in relation to the health of human receptors, as set out in ES Chapter 16: Air Quality **[EN010170/APP/GH6.2.16]** and ES Chapter 18: Human Health **[EN010170/APP/GH6.2.18]**. No claim is therefore envisaged in respect of a statutory nuisance under section 79(1)(d).

4.3 Artificial Light

4.3.1 Section 79(1)(fb) provides that the following constitutes a statutory nuisance, "*artificial light emitted from premises so as to be prejudicial to health or a nuisance*".

4.3.2 A statutory nuisance would exist if artificial light substantially interferes with the wellbeing, comfort or enjoyment of an individual's property. Usually this would mean that lights were causing a nuisance on a regular basis. Artificial lights may cause a nuisance if they are not maintained or used properly.

Construction and Decommissioning

4.3.3 Construction temporary site lighting, in the form of mobile lighting towers with a power output of 8 kilo volt-amperes (kVAs), will be required in areas where natural lighting is unable to reach (sheltered/confined areas) and during core working hours within winter months. Artificial lighting would be provided to maintain sufficient security and health and safety for the Order limits, whilst adopting the mitigation principles to avoid excessive glare and minimise spill of light to nearby receptors (including ecology and residents) outside of the Order limits as far as reasonably practicable. All construction lighting will be deployed in accordance with the following recommendations to prevent or reduce the impact on human and ecological receptors. These mitigation principles are outlined within the OCEMP **[EN010170/APP/GH7.1]** and Outline Decommissioning Statement **[EN010170/APP/GH7.3]**:

- The use of lighting will be minimised to that required for safe site operations;
- Lighting will utilise directional fittings to minimise outward light spill and glare (e.g. via the use of light hoods/cowls which direct light below the horizontal plane, preferably at an angle greater than 20° from horizontal); and
- Lighting will be directed towards the middle of the Order limits rather than towards the boundaries.

4.3.4 Following the granting of the DCO, the detailed CEMP and Decommisioning Statement will be prepared, agreed and approved by the relevant Local Planning Authorities in advance of commencing the enabling works permitted under the DCO. Both documents will be substantially in accordance with the OCEMP **[EN010170/APP/GH7.1]** and Outline Decommissioning Statement **[EN010170/APP/GH7.3]**.

Operation

4.3.5 Lighting is generally not required within the Sites during the operation and maintenance phase of the Scheme. All routine maintenance activities would be scheduled to be carried out during daylight hours as far as is practicable. It is anticipated that nighttime working should only be necessary in the event of emergency works/equipment failure.

4.3.6 During the operational phase, no part of the Scheme will be continuously lit. The use of motion detection security lighting to avoid permanent lighting will be utilised and a sensitive lighting scheme will be developed ensuring inward distribution of light and avoiding light spill on to existing boundary features.

4.3.7 Lighting will be directed downward and away from boundaries as proposed for the construction phase lighting. Therefore, there will be no lighting at the perimeter of the Order limits and no potential for a statutory nuisance arising from typical maintenance activities.

4.3.8 It is anticipated that temporary lighting may be required across the Sites for replacement activities during the operational phase. Lighting required for the programme of equipment replacement will follow the measures set out for the construction phase. Lighting will be minimised to that required for safe operations and standard good practice measures will be employed to minimise light spill which are further detailed within the OEMP **[EN010170/APP/GH7.2]**.

Conclusion

4.3.9 For the reasons explained above and with the implementation of the above mitigation measures, no claim is envisaged in respect of statutory nuisance under Section 79(1)(fb) of the EPA.

4.4 Noise and Vibration

4.4.1 The following constitute a statutory nuisance in respect of the EPA:

- Section 79(1)(g) - *"noise emitted from premises so as to be prejudicial to health or a nuisance"*; and
- Section 79(1)(ga) - *"noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street"*.

4.4.2 If noise is excessive, prolonged or on a regular basis it may constitute a statutory nuisance. A statutory nuisance would exist if noise substantially interfered with the well-being, comfort, or enjoyment of an individual's property.

4.4.3 An assessment of noise and vibration impacts has been undertaken and is reported in ES Chapter 14: Noise and Vibration **[EN010170/APP/GH6.2.14]**. The chapter assesses the significance of potential noise and vibration effects during the construction, operational and decommissioning phases, and concludes that, with appropriate mitigation, there would be no significant noise or vibration effects.

4.4.4 The elements relevant to section 79(1)(g) and (ga) are those relating to noise emitted from premises (which includes land) and from vehicles, machinery, and equipment in a street. Traffic noise is specifically excluded from consideration by section 79(6A)(a) of the EPA and is not considered further.

Construction and Decommissioning

4.4.5 ES Chapter 14: Noise and Vibration **[EN010170/APP/GH6.2.14]** outlines that noise level from construction noise is predicted to be less than 1 dB for all sensitive receptors. This is equivalent to a Moderate/Minor magnitude of impact. Many sensitive receptors are also calculated to experience no change in traffic noise as a result of the construction traffic (i.e. ≤ 0 dB change), which is equivalent to a neutral magnitude of impact.

4.4.6 Noise levels from the construction activities along the cable route are below background levels at all receptors except BESS002 and BESS003 where construction noise is above background levels but below the BS5228 threshold. The construction noise is therefore predicted to be Negligible at all receptors except for BESS002 and BESS003 where it is predicted to be a Low magnitude of impact. This is an indication of Moderate/Minor and Moderate effects and not significant.

4.4.7 Construction noise and vibration is also temporary, and the assessment assumes that all construction activities will be happening simultaneously across the Sites and Cable Route Corridor as this is considered worst-case. Construction activity on the Sites and cable corridor would likely be experienced by limited receptors at any given time as work progresses across the Scheme. Construction activity on site would likely be experienced by limited receptors at any given time as work progresses across the Scheme. Therefore, the residual construction noise and vibration effects during the consturction phase will be not be significant.

4.4.8 Noise and vibration effects during the decommissioning phase of the Scheme will be similar or less than noise effects during the construction phase. Construction and decommissioning noise levels at surrounding receptors will vary depending on the locations and types of works taking place. Occupants of nearby receptors are likely to be more tolerable of these events if they are regularly communicated with, and kept informed of timings and duration of high noise generating events.

4.4.9 Measures to control noise as defined in Annex B of BS 5228-1 and measures to control vibration as defined in Section 8 of BS 5228-2 will be adopted where reasonably practicable during the construction and decommissioning phases.

4.4.10 These measures represent Best Practicable Means (BPM) and are included within the Outline CEMP **[EN010170/APP/GH7.1]** and Outline Decommissioning Statement **[EN010170/APP/GH7.3]**. Examples of BPM that will be implemented during construction and decommissioning works are presented below:

- Ensuring that all appropriate processes, procedures and measures are in place to minimise noise before works begin and throughout the construction programme;
- All contractors to be made familiar with current legislation and the guidance in BS 5228 (Parts 1 and 2) which should form a prerequisite of their appointment;
- When works are taking place within close proximity (e.g. <20m) to the sensitive receptors identified, the screening of noise sources via the erection of temporary screens would be employed;
- All machinery would be regularly maintained to control noise emissions, with particular emphasis on lubrication of bearings and the integrity of silencers;
- Site staff would be made aware that they are working adjacent to a sensitive area and avoid all unnecessary noise due to misuse of tools and equipment, unnecessary shouting and radios;
- As far as possible, the avoidance of two noisy operations occurring simultaneously in close proximity to the same sensitive receptor;
- Adherence to any time limits imposed on noisy works by the local authority;
- Adhere to set working hours during the week and at weekends where practicable;
- Ensure engines are turned off when possible;
- Should earthworks and construction activities need to be carried out during night-time hours, the oCEMP requires advance notice and details of any night working to provided; and
- Notices and/or communication with nearby residents to inform them of the works and anticipated construction periods, as occupants of nearby sensitive receptors are likely to be more tolerable of the construction if they are provided with timings and duration of high noise generating events.
- In line with BS5228-2 alternative methods, removal of obstructions, provision of cut-off trenches, reduction of energy input per blow, reduction of resistance to penetration may be implemented to reduce vibration.

Operation

4.4.11 An assessment of operational noise was undertaken based on worst-case assessment criteria; in accordance with the guidance contained within BS 4142 guidance. ES Chapter 14: Noise and Vibration **[EN010170/APP/GH6.2.14]** outlines noise levels from the Scheme during operation are predicted to be no higher than the existing background noise levels at the closest sensitive receptors during the day and night-time, which is negligible magnitude of impact. This is an indication of a Moderate/minor effect and not significant.

4.4.12 The results of the assessments have been used to inform the design of development layouts and the following mitigation measures have been embedded, ensuring no significant noise effects:

- Where possible, the distance from the nearest residential receptors to the substation and energy storage facility and onsite transformers and inverters has been maximised;
- Where possible, noise-emitting equipment has been placed away from sensitive receptors;
- Where practical, quieter items of plant have been selected;
- Where required, manufacturer-supplied noise mitigation will be installed;
- Where required, noise generating equipment will be enclosed / containerised; and
- Where required, louvres and/or acoustic barriers will be included around inverters and BESS cooling fans.

4.4.13 Green Hill BESS site layout includes a 1.5m high bund with a 2.4m high acoustic barrier on top. The location of these is to the north of the site (i.e. between Green Hill BESS and sensitive receptor BESS001) as shown in more detail on the layouts presented in Volume 2, ES Figures 4.16.1 and 4.16.2 Landscape and Ecology Mitigation Plan BESS Option A and Option B **[EN01070/APPGH6.4.4.16.1 and 16.2]**. The acoustic barrier will have a minimum surface mass of 12 kg/m^2 and be imperforate (i.e. no gaps or holes).

4.4.14 An Operational Environmental Management Plan (OEMP) **[EN010170/APP/GH7.2]** will also be used during the operational stage of the development.

4.4.15 These measures are secured within the Concept Design Parameters and Principles document **[EN010170/APP/GH7.17]** accompanying the application.

4.4.16 With these measures in place and considering the site context, the residual operational noise effects of the Scheme are not significant.

4.4.17 No major vibration sources are envisaged to be introduced as part of the Scheme and as such there will be no associated operational vibration effects. No further assessment of operational vibration has been included in the ES.

Operational Phase – Programme of Equipment Replacement

4.4.18 The noise levels from the replacement activities have been calculated for the receptors closest to each site and compared against the relevant criteria from BS5228. The relevant criteria have been based on these activities only occurring during the weekday daytime (07:00-19:00) or Saturday daytime (07:00-13:00). Noise levels from the replacement of batteries and panels are either below background levels or above background levels but below the BS5228 threshold. The replacement noise is therefore predicted to be either Negligible or a Low magnitude of impact. This is an indication of Moderate/Minor and Moderate effects and not significant.

Conclusion

4.4.19 For the reasons explained above and with the mitigation measures in place, no likely significant effects are expected to occur in relation to noise and vibration matters, including in relation to the health of human receptors, as set out in ES Chapter 14: Noise and Vibration **[EN010170/APP/GH6.2.14]**, and ES Chapter 18: Human Health **[EN010170/APP/GH6.2.18]**, during the construction, operation (and maintenance) and decommissioning phases of the Scheme.

4.4.20 No claim against statutory nuisance in respect of noise and vibration is therefore envisaged in respect of a statutory nuisance under section 79(1)(g) or (ga) of the EPA.

5 Conclusion

5.1.1 In line with Regulation 5(2)(f) of the APFP Regulations, this Statement has identified whether the Scheme has engaged one or more of the matters set out in Section 79(1) of the EPA, and thus considered whether the Scheme would cause a statutory nuisance.

5.1.2 The matters in the EPA that have been engaged by the Scheme are general site condition, waste, air quality, artificial light, and noise and vibration, during all phases of the Scheme. The embedded design and additional mitigation measures identified in the ES are secured by requirements contained within the draft DCO.

5.1.3 It is not envisaged that the construction, operation (and maintenance) and decommissioning of the Scheme would give rise to any claim in respect of statutory nuisance under Section 79(1) of the EPA.

References

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